

05-19-06

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IPWExpress Mail Label No.: EV 829090790US
Date of Deposit: May 17, 2006

Attorney Docket No.: 34585-503



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 10/645,237 Confirmation No.: 7166
 Applicant(s) : Oleg Logvinov, *et al.*
 Filed : August 21, 2003
 TC/A.U. : 2636
 Examiner : Swarthout, Brent
 Title : Method and System For Modifying Modulation of Power Line
 Communications Signals for Maximizing Data Throughput Rate

MAIL STOP PETITION

Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

05/22/2006 TBESHAH1 00000021 10645237

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750.00 OP

**PETITION FOR REVIVAL OF AN UNINTENTIONALLY ABANDONED
 PATENT APPLICATION UNDER 37 C.F.R. 1.137(b)**

1. This petition is to request revival of the above-referenced application under 37 C.F.R. § 1.137(b). As the substantive prosecution has been completed and the notice of allowance has been issued, the petition is accompanied by the Issue Fee Transmittal PTOL-85 Part B and a check #(3209) for \$1015.00 (for payment of issue fee, publication fee and three (3) advanced copies of the patent). Applicants have acted promptly to reinstate the above-referenced, allowed application since they became aware of its unintentional abandonment.
2. A check # (3208) for \$750.00 in payment of the petition fee set forth in 37 C.F.R. § 1.17(m) is enclosed (37 C.F.R. § 1.137(b)(2)).
3. Applicants hereby state that the entire delay in filing the required reply and payment of the issue fee from the due date until the filing of the present petition was unintentional (37 C.F.R. § 1.137(b)(3)). In particular, applicant's prior attorneys from Norris McLaughlin & Marcus PA (the "NMM firm") withdrew from representation of the applicants on June 28, 2005 without giving notice to the applicants of the deadline for payment of the issue fee. (Declaration of Oleg Logvinov dated May 17, 2006 ¶ 3) The withdrawing NMM firm has forwarded the voluminous patent files *en masse* to the assignee of the application, Arkados, Inc., a small company whose headcount had been only between 10 and 12 employees, none of whom is trained in the patent law field. Arkados has diligently undertook to review the files but has not been able to complete that process before the deadline to pay the issue fee for this allowed application. (Logvinov Decl. ¶¶ 3-4)

4. Soon after the withdrawal of the NMM firm, Arkados started negotiations with them to revive the relationship. In fact, in August 2005 the negotiations were already under way for the NMM firm to continue representing Arkados in the intellectual property matters. As a back up plan, in September 2005 Arkados has also contacted other law firms in an effort to find replacement intellectual property counsel. (Logvinov Decl. ¶ 5)
5. Arkados received the notice of abandonment of the application on or about October 26, 2005. Arkados never intended to abandon this already allowed application. Arkados places significant value on its patents and has continuously expanded its patent portfolio. In fact, Arkados already has 2 issued U.S. patents. Arkados relies on patent protection of its innovative technology and issues press releases about the issuance of its patents. Arkados also pursues foreign patent rights based on the U.S. applications in many countries. In addition to the already incurred R&D expenses to invent this technology, Arkados has already spent over approximately \$10,000 on preparation and prosecution of this application and would not want to abandon that investment after the application was allowed and additional fees were minimal. Therefore, Arkados was eager to add another patent to its patent portfolio and did **not** intend to abandon it. (Logvinov Decl. ¶ 6)
6. As it had no patent counsel when it received notice of abandonment, Arkados was diligently working towards hiring patent counsel to reinstate this allowed application. In November 2005, Arkados promptly continued negotiations to hire back the NMM firm, the firm most familiar with the Arkados' applications because it has drafted and prosecuted almost the entire Arkados' patent portfolio. Arkados also looked into hiring other patent counsel. (Logvinov Decl. ¶ 7) After on March 31, 2006 the NMM firm finally rejected Arkados' proposals to continue work on Arkados' patent portfolio, Arkados has engaged Mintz Levin Cohn Ferris Glovsky & Popeo, P.C. ("Mintz Levin") in April 2006, to become its patent counsel. Mintz Levin has promptly reviewed the file and prepared this petition to revive this already allowed but unintentionally abandoned application. (Logvinov Decl. ¶ 8)
7. Since this utility application was filed on or after June 8, 1995, no terminal disclaimer is required.
8. The Issue Fee Transmittal (PTOL-85 PART B) is enclosed. A check # (3209) in the amount of \$1,015.00 is also enclosed to cover the issue fee, publication fee and three (3) advanced copies of the issued patent.
9. The Director is hereby authorized to charge payment of any additional fee(s) that may be due in connection with this Petition and/or the payment of the Issue Fee that accompanies this Petition to Deposit Account No. 50-0311, Ref. No. 34585-503, Customer No. 35437. A duplicate copy of this Petition is enclosed.

10. If the enclosed papers are considered incomplete, the U.S. Patent and Trademark Office is respectfully requested to contact the undersigned at the below address.
11. The Revocation by Assignee and New Power of Attorney to Mintz Levin is being filed today under separate cover.
12. A return receipt is enclosed.

Dated: May 17, 2006

Respectfully submitted,



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